

06/04/2001 11:55:05 AM

Page 1

2001 DRAFTING REQUEST**Senate Amendment (SA-SB55)**

Received: 06/01/2001

Received By: kahlepj

Wanted: Soon

Identical to LRB:

For: Legislative Fiscal Bureau 6-3847

By/Representing: Larson

This file may be shown to any legislator: NO

Drafter: kahlepj

May Contact:

Addl. Drafters:

Subject: Dom. Rel. - child support

Extra Copies:

Submit via email: NO

Requester's email:

Pre Topic:

LFB:.....Larson -

Topic:

Percentage-expressed support orders

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kahlepj 06/01/2001	wjackson 06/03/2001					
/1			jfrantze 06/04/2001		lrb_docadmin 06/04/2001		

FE Sent For:

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1?	kahlepj	1 WLJ 6/3	6/4	6/4			

FE Sent For:

<END>

**Legislative Fiscal Bureau**

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

Date: 5/31/2001

DELIVER TO:

Pam Kahler

Addressee Fax #:

4-6948

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(6)

Sender's Initials:

From:

DREW B. LARSON

Message:

TO be drafted:

① Off of Issue Paper #1060, Att. 6 - Three pages related to federal tax intercept. [Att. 2 & 6 passed on a 16-0 vote.]

* ② Off of Issue Paper #1061 - Motion #1275 (refer especially to the one sentence under "Note") [Passed on a 16-0 vote.]

Call if you have questions (6-3847). Thanks!

--DBL

5/31 3:15 pm

Representative Huebsch

WORKFORCE DEVELOPMENT--CHILD SUPPORT

Percentage-Expressed Support Orders

[LFB Paper #1061]

Passes
16-0

Motion:

Move to require all future child support orders to be expressed as a fixed sum (rather than a percentage of income or the greater or lesser of a fixed sum or a percentage of income) unless the parties have stipulated to expressing the amount as a percentage of the payer's income and the following conditions are satisfied: (a) the state is not a real party in interest in the action; (b) the payer is not subject to any other order, in any other action, for the payment of support or maintenance; and (c) all payment obligations included in the order, other than the annual receipt and disbursement fee, are expressed as a percentage of the payer's income.

Provide, for existing orders, that a court would not have to make a finding of substantial change in circumstances in order to change a percentage-expressed or mixed support order to a fixed sum order.

Require support obligors to notify the payee, within 10 business days, if the obligor changes employers or if there is substantial change in the obligor's income, including receipt of bonus compensation.

Specify that support orders could provide for an annual adjustment in the amount to be paid, based on a change in the payer's income if the order is: (a) expressed as a fixed sum; and (b) based on the percentage standard established by DWD. Provide that either party could request an annual adjustment.

Modify current law by specifying that the court or family court commissioner could direct that all or part of the annual adjustment not take effect until such time as the court or commissioner directs if: (a) the payee was seeking an adjustment and the payer establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted obligation; (b) the payer was seeking the adjustment and the payee establishes that the payer voluntarily and unreasonably reduced his or her income below his or her earning capacity; or (c) the payer was seeking the adjustment and the payee establishes that the adjustment would be unfair to the child. Create specific procedures and forms to be used when parties agree to stipulate to an adjustment under this provision and permit courts and family court commissioners to award actual costs and reasonable attorney fees if a party fails to provide required information in a timely manner or unreasonably fails or refuses to sign a stipulation for an annual adjustment.

Note:

This motion would incorporate the provisions of LRB 0112/2 except for provisions relating to financial disclosure requirements.

s. 767.27(2m)

also, per Drew Hanson on 6-1, do not
include change to s. 767.075(1)(c)

2001

Date (time)
needed

SOON

(6-1)

LRB b 0549, 1

**LFB BUDGET AMENDMENT
[ONLY FOR LFB]**

PJK : WJ :

See form **AMENDMENTS — COMPONENTS & ITEMS.**

**LFB AMENDMENT
TO 2001 ASSEMBLY BILL 144 AND 2001 SENATE BILL 55**

>>FOR JT. FIN. SUB. — NOT FOR INTRODUCTION<<

At the locations indicated, amend the bill as follows:

#. Page 1632, line 5.: after that line insert :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

③ 3786c
1 767.075 (1) (c) Whenever aid under s. 46.261, 48.57 (3m) or (3n), 49.19, or 49.45
2 is provided on behalf of a dependent child or benefits are provided to the child's
3 custodial parent under s. 49.124, 49.155, or 49.665 or under ss. 49.141 to 49.161.

④ " SECTION 2. 767.08 (2) (b) of the statutes is amended to read:

5 767.08 (2) (b) The court in the action shall, as provided under s. 767.25 or
6 767.26, determine and adjudge the amount, if any, the person should reasonably
7 contribute to the support and maintenance of the spouse or child and how the sum
8 should be paid. This amount ~~may~~ must be expressed as a percentage of the person's
9 ~~income or as a fixed sum, or as a combination of both in the alternative by requiring~~
10 ~~payment of the greater or lesser of either a percentage of the person's income or a~~
11 ~~fixed sum unless the parties have stipulated to expressing the amount as a~~
12 ~~percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to~~
13 ~~3. are satisfied.~~ The amount so ordered to be paid may be changed or modified by the
14 court upon notice of motion or order to show cause by either party upon sufficient
15 evidence.

⑤ 3786d
⑬ SECTION 3. 767.10 (2) (am) of the statutes is created to read:

17 767.10 (2) (am) A court may not approve a stipulation for expressing child
18 support or family support as a percentage of the payer's income unless all of the
19 following apply:

20 1. The state is not a real party in interest in the action under any of the
21 circumstances specified in s. 767.075 (1).

22 2. The payer is not subject to any other order, in any other action, for the
23 payment of child or family support or maintenance.

3. All payment obligations included in the order, other than the annual receiving and disbursing fee under s. 767.29 (1) (d), are expressed as a percentage of the payer's income. [Ⓟ]3786e

4 SECTION 4. 767.23 (1) (c) of the statutes is amended to read:

5 767.23 (1) (c) Subject to s. 767.477, requiring either party or both parties to
6 make payments for the support of minor children, which payment amounts may
7 must be expressed as a ~~percentage of parental income or as a fixed sum, or as a~~
8 ~~combination of both in the alternative by requiring payment of the greater or lesser~~
9 ~~of either a percentage of parental income or a fixed sum~~ unless the parties have
10 stipulated to expressing the amount as a percentage of the payer's income and the
11 requirements under s. 767.10 (2) (am) 1. to 3. are satisfied. [Ⓟ]3786f

12 SECTION 4. 767.25 (1) (a) of the statutes is amended to read:

13 767.25 (1) (a) Order either or both parents to pay an amount reasonable or
14 necessary to fulfill a duty to support a child. The support amount ~~may~~ must be
15 expressed as a ~~percentage of parental income or as a fixed sum, or as a combination~~
16 ~~of both in the alternative by requiring payment of the greater or lesser of either a~~
17 ~~percentage of parental income or a fixed sum~~ unless the parties have stipulated to
18 expressing the amount as a percentage of the payer's income and the requirements
19 under s. 767.10 (2) (am) 1. to 3. are satisfied. [Ⓟ]3786g

20 SECTION 4. 767.263 (1) of the statutes is amended to read:

21 767.263 (1) Each order for child support, family support, or maintenance
22 payments shall include an order that the payer and payee notify the county child
23 support agency under s. 59.53 (5) of any change of address within 10 business days
24 of such change. Each order for child support, family support, or maintenance
25 payments shall also include an order that the payer notify the county child support

1 agency under s. 59.53 (5) and the payee, within 10 business days, of any change of
2 employer and of any substantial change in the amount of his or her income, including
3 receipt of bonus compensation, such that his or her ability to pay child support,
4 family support, or maintenance is affected. The order shall also include a statement
5 that clarifies that notification of any substantial change in the amount of the payer's
6 income will not result in a change of the order unless a revision of the order under
7 s. 767.32 or an annual adjustment of the child or family support amount under s.
8 767.33 is sought. ”

9 “ SECTION 767.265 (3m) of the statutes is amended to read:

10 767.265 (3m) Benefits under ch. 108 may be assigned and withheld only in the
11 manner provided in s. 108.13 (4). Any order to withhold benefits under ch. 108 ~~may~~
12 ~~shall be for a percentage of benefits payable or for a fixed sum, or for a combination~~
13 ~~of both in the alternative by requiring the withholding of the greater or lesser of~~
14 ~~either a percentage of benefits payable or a fixed sum unless the court-ordered~~
15 ~~obligation on which the withholding order is based is expressed in the court order as~~
16 ~~a percentage of the payer's income, in which case an order to withhold benefits under~~
17 ~~ch. 108 shall be for a percentage of benefits payable.~~ When money is to be withheld
18 from these benefits, no fee may be deducted from the amount withheld and no fine
19 may be levied for failure to withhold the money. ”

20 SECTION 767.27 (2) of the statutes is amended to read:

21 767.27 (2) ~~Except as provided in sub. (2m), disclosure~~ Disclosure forms
22 ~~required under this section shall be filed within 90 days after the service of summons~~
23 ~~or the filing of a joint petition or at such other time as ordered by the court or family~~
24 ~~court commissioner.~~ Information contained on such forms shall be updated on the
25 record to the date of hearing.

#. Page 1633, line 7: after that line insert:

#, Page 1636, line 2: after that line insert:

SECTION 9. 767.27 (2m) of the statutes is amended to read:

767.27 (2m) In every action in which the court has ordered a party to pay child support under s. 767.25, 767.51 or 767.62 (4) or family support under s. 767.261 and the circumstances specified in s. 767.075 (1) apply this chapter, including an action to revise a judgment or order under s. 767.32, the court shall require the party who is ordered to pay the support to annually furnish the disclosure form required under this section and may require that party to annually furnish a copy of his or her most recently filed state and federal income tax returns to the county child support agency under s. 59.53 (5) for the county in which the order was entered. In any action in which the court has ordered a party to pay child support under s. 767.25, 767.51 or 767.62 (4) or family support under s. 767.261, the court may require the party who is ordered to pay the support to annually furnish the disclosure form required under this section and a copy of his or her most recently filed state and federal income tax returns to the party for whom the support has been awarded. A party who fails to furnish the information as required by the court under this subsection may be proceeded against for contempt of court under ch. 785. If the court finds that a party has failed to furnish the information required under this subsection, the court may award to the party bringing the action costs and, notwithstanding s. 814.04 (1), reasonable attorney fees.

3793e®
SECTION 10. 767.32 (1) (a) of the statutes is amended to read:

767.32 (1) (a) After a judgment or order providing for child support under this chapter or s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b) 4., 938.357 (5m) (a), 938.363 (2), or 948.22 (7), maintenance payments under s. 767.26, or family support payments under this chapter, or for the appointment of trustees under s. 767.31, the court may, from time to time, on the petition, motion,

1 or order to show cause of either of the parties, or upon the petition, motion, or order
2 to show cause of the department, a county department under s. 46.215, 46.22, or
3 46.23, or a county child support agency under s. 59.53 (5) if an assignment has been
4 made under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h), or 49.45 (19) or if
5 either party or their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49,
6 and upon notice to the family court commissioner, revise and alter such judgment or
7 order respecting the amount of such maintenance or child support and the payment
8 thereof, and also respecting the appropriation and payment of the principal and
9 income of the property so held in trust, and may make any judgment or order
10 respecting any of the matters that such court might have made in the original action,
11 except that a judgment or order that waives maintenance payments for either party
12 shall not thereafter be revised or altered in that respect nor shall the provisions of
13 a judgment or order with respect to final division of property be subject to revision
14 or modification. ~~A~~ Except as provided in par. (d), a revision, under this section, of
15 a judgment or order with respect to an amount of child or family support may be made
16 only upon a finding of a substantial change in circumstances. In any action under
17 this section to revise a judgment or order with respect to maintenance payments, a
18 substantial change in the cost of living by either party or as measured by the federal
19 bureau of labor statistics may be sufficient to justify a revision of judgment or order
20 with respect to the amount of maintenance, except that a change in an obligor's cost
21 of living is not in itself sufficient if payments are expressed as a percentage of income.

22 SECTION ~~11~~ 767.32 (1) (d) of the statutes is created to read:

23 767.32 (1) (d) In an action under this section to revise a judgment or order with
24 respect to child or family support, the court is not required to make a finding of a

3793g
substantial change in circumstances to change to a fixed sum the manner in which
the amount of child or family support is expressed in the judgment or order.

SECTION ~~11~~ 767.33 of the statutes is repealed and recreated to read:

767.33 Annual adjustments in support orders. (1) (a) An order for child
or family support under this chapter may provide for an annual adjustment in the
amount to be paid based on a change in the payer's income if the amount of child or
family support is expressed in the order as a fixed sum and based on the percentage
standard established by the department under s. 49.22 (9). No adjustment may be
made under this section unless the order provides for the adjustment.

(b) An adjustment under this section may not be made more than once in a year
and shall be determined on the basis of the percentage standard established by the
department under s. 49.22 (9).

(c) In the order the court or family court commissioner shall specify what
information the parties must exchange to determine whether the payer's income has
changed, and shall specify the manner and timing of the information exchange.

(2) If the court or family court commissioner provides for an annual
adjustment, the court or family court commissioner shall make available to the
parties, including the state if the state is a real party in interest under s. 767.075 (1),
a form approved by the court or family court commissioner for the parties to use in
stipulating to an adjustment of the amount of child or family support and to
modification of any applicable income-withholding order. The form shall include an
order, to be signed by a judge or family court commissioner, for approval of the
stipulation of the parties.

(3) (a) If the payer's income changes from the amount found by the court or
family court commissioner or stipulated to by the parties for the current child or

1 family support order, the parties may implement an adjustment under this section
2 by stipulating, on the form under sub. (2), to the changed income amount and the
3 adjusted child or family support amount, subject to sub. (1) (b).

4 (b) The stipulation form must be signed by all parties, including the state if the
5 state is a real party in interest under s. 767.075 (1), and filed with the court. If the
6 stipulation is approved, the order shall be signed by a judge or family court
7 commissioner and implemented in the same manner as an order for a revision under
8 s. 767.32. An adjustment under this subsection shall be effective as of the date on
9 which the order is signed by the judge or family court commissioner.

10 (4) (a) Any party, including the state if the state is a real party in interest under
11 s. 767.075 (1), may file a motion, petition, or order to show cause for implementation
12 of an annual adjustment under this section if any of the following applies:

13 1. A party refuses to provide the information required by the court under sub.
14 (1) (c).

15 2. The payer's income changes, but a party refuses to sign the stipulation for
16 an adjustment in the amount of child or family support.

17 (b) If the court or family court commissioner determines after a hearing that
18 an adjustment should be made, the court or family court commissioner shall enter
19 an order adjusting the child or family support payments by the amount determined
20 by the court or family court commissioner, subject to sub. (1) (b). An adjustment
21 under this subsection may not take effect before the date on which the party
22 responding to the motion, petition, or order to show cause received notice of the action
23 under this subsection.

(c) Notwithstanding par. (b), the court or family court commissioner may direct that all or part of the adjustment not take effect until such time as the court or family court commissioner directs, if any of the following applies:

1. The payee was seeking an adjustment and the payer establishes that extraordinary circumstances beyond his or her control prevent fulfillment of the adjusted child or family support obligation.

2. The payer was seeking an adjustment and the payee establishes that the payer voluntarily and unreasonably reduced his or her income below his or her earning capacity.

3. The payer was seeking an adjustment and the payee establishes that the adjustment would be unfair to the child.

(d) If in an action under this subsection the court or family court commissioner determines that a party has unreasonably failed to provide the information required under sub. (1) (c) or to provide the information on a timely basis, or unreasonably failed or refused to sign a stipulation for an annual adjustment, the court or family court commissioner may award to the aggrieved party actual costs, including service costs, any costs attributable to time missed from employment, the cost of travel to and from court, and reasonable attorney fees.

(5) Nothing in this section affects a party's right to file at any time a motion, petition, or order to show cause under s. 767.32 for revision of a judgment or order with respect to an amount of child or family support.))

3828r
" SECTION 808.075 (4) (d) 3. of the statutes is amended to read:

808.075 (4) (d) 3. Annual adjustment of child or family support under s. 767.33.))

3830m
" SECTION 814.04 (intro.) of the statutes, as affected by 2001 Wisconsin Act 6, is amended to read:

#. Page 1653, line 13: after that line insert:

1 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
 2 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,
 3 814.245, 895.035 (4), 895.10 (3), 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212
 4 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as follows: ')).

5 ~~SECTION 15/Initial applicability.~~

6 ~~4~~ ~~§~~ ^(a) The treatment of sections 767.08 (2) (b), 767.10 (2) (am), 767.23 (1) (c),
 7 767.25 (1) (a), 767.263 (1), 767.265 (3m), 767.33, and 814.04 (intro.) of the statutes
 8 first applies to judgments and orders, including revision orders under section 767.32
 9 of the statutes, as affected by this act, and temporary orders granted on the effective
 10 date of this ~~subsection~~ ^{paragraph}

11 ~~4~~ ~~§~~ ^(b) The treatment of section 767.32 (1) (a) and (d) of the statutes first applies
 12 to actions under section 767.32 of the statutes, as affected by this act, to revise a
 13 judgment or order with respect to child or family support that are commenced on the
 14 effective date of this ~~subsection~~ ^{paragraph} ')).

15 (3) The treatment of section 767.27 (2) and (2m) of the statutes first applies to
 16 actions in which a child or family support order under chapter 767 of the statutes,
 17 as affected by this act, including a revision order under section 767.32 of the statutes,
 18 as affected by this act, is granted on the effective date of this subsection.

19 (4) The treatment of section 767.075 (1) (c) of the statutes first applies to actions
 20 affecting the family that are pending on the effective date of this subsection.

21 (END)

#. Page 1813, line 13: after that line insert:
 4 ^(CS) "(8^k) Percentage-expressed support orders and
 annual adjustments.

LFB:.....Larson – Percentage–expressed support orders

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

LFB AMENDMENT

TO 2001 SENATE BILL 55 AND 2001 ASSEMBLY BILL 144

1 At the locations indicated, amend the bill as follows:

2 1. Page 1632, line 5: after that line insert:

3 “SECTION 3786c. 767.08 (2) (b) of the statutes is amended to read:

4 767.08 (2) (b) The court in the action shall, as provided under s. 767.25 or
5 767.26, determine and adjudge the amount, if any, the person should reasonably
6 contribute to the support and maintenance of the spouse or child and how the sum
7 should be paid. This amount ~~may~~ must be expressed as a ~~percentage of the person's~~
8 ~~income or as a fixed sum, or as a combination of both in the alternative by requiring~~
9 ~~payment of the greater or lesser of either a percentage of the person's income or a~~
10 ~~fixed sum~~ unless the parties have stipulated to expressing the amount as a
11 percentage of the payer's income and the requirements under s. 767.10 (2) (am) 1. to
12 3. are satisfied. The amount so ordered to be paid may be changed or modified by the

1 court upon notice of motion or order to show cause by either party upon sufficient
2 evidence.

3 **SECTION 3786d.** 767.10 (2) (am) of the statutes is created to read:

4 767.10 (2) (am) A court may not approve a stipulation for expressing child
5 support or family support as a percentage of the payer's income unless all of the
6 following apply:

7 1. The state is not a real party in interest in the action under any of the
8 circumstances specified in s. 767.075 (1).

9 2. The payer is not subject to any other order, in any other action, for the
10 payment of child or family support or maintenance.

11 3. All payment obligations included in the order, other than the annual
12 receiving and disbursing fee under s. 767.29 (1) (d), are expressed as a percentage
13 of the payer's income.

14 **SECTION 3786e.** 767.23 (1) (c) of the statutes is amended to read:

15 767.23 (1) (c) Subject to s. 767.477, requiring either party or both parties to
16 make payments for the support of minor children, which payment amounts ~~may~~
17 must be expressed as a ~~percentage of parental income or as a fixed sum, or as a~~
18 ~~combination of both in the alternative by requiring payment of the greater or lesser~~
19 ~~of either a percentage of parental income or a fixed sum~~ unless the parties have
20 stipulated to expressing the amount as a percentage of the payer's income and the
21 requirements under s. 767.10 (2) (am) 1. to 3. are satisfied.

22 **SECTION 3786f.** 767.25 (1) (a) of the statutes is amended to read:

23 767.25 (1) (a) Order either or both parents to pay an amount reasonable or
24 necessary to fulfill a duty to support a child. The support amount ~~may~~ must be
25 expressed as a ~~percentage of parental income or as a fixed sum, or as a combination~~

1 ~~of both in the alternative by requiring payment of the greater or lesser of either a~~
2 ~~percentage of parental income or a fixed sum~~ unless the parties have stipulated to
3 expressing the amount as a percentage of the payer's income and the requirements
4 under s. 767.10 (2) (am) 1. to 3. are satisfied.

5 **SECTION 3786g.** 767.263 (1) of the statutes is amended to read:

6 767.263 (1) Each order for child support, family support, or maintenance
7 payments shall include an order that the payer and payee notify the county child
8 support agency under s. 59.53 (5) of any change of address within 10 business days
9 of such change. Each order for child support, family support, or maintenance
10 payments shall also include an order that the payer notify the county child support
11 agency under s. 59.53 (5) and the payee, within 10 business days, of any change of
12 employer and of any substantial change in the amount of his or her income, including
13 receipt of bonus compensation, such that his or her ability to pay child support,
14 family support, or maintenance is affected. The order shall also include a statement
15 that clarifies that notification of any substantial change in the amount of the payer's
16 income will not result in a change of the order unless a revision of the order under
17 s. 767.32 or an annual adjustment of the child or family support amount under s.
18 767.33 is sought.”.

19 **2.** Page 1633, line 7: after that line insert:

20 “**SECTION 3788g.** 767.265 (3m) of the statutes is amended to read:

21 767.265 (3m) Benefits under ch. 108 may be assigned and withheld only in the
22 manner provided in s. 108.13 (4). Any order to withhold benefits under ch. 108 ~~may~~
23 shall be for a percentage of benefits payable or for a fixed sum, or for a combination
24 ~~of both in the alternative by requiring the withholding of the greater or lesser of~~

1 ~~either a percentage of benefits payable or a fixed sum unless the court-ordered~~
2 ~~obligation on which the withholding order is based is expressed in the court order as~~
3 ~~a percentage of the payer's income, in which case an order to withhold benefits under~~
4 ~~ch. 108 shall be for a percentage of benefits payable.~~ When money is to be withheld
5 from these benefits, no fee may be deducted from the amount withheld and no fine
6 may be levied for failure to withhold the money.”.

7 **3.** Page 1636, line 2: after that line insert:

8 “**SECTION 3793e.** 767.32 (1) (a) of the statutes is amended to read:

9 767.32 (1) (a) After a judgment or order providing for child support under this
10 chapter or s. 48.355 (2) (b) 4., 48.357 (5m) (a), 48.363 (2), 938.183 (4), 938.355 (2) (b)
11 4., 938.357 (5m) (a), 938.363 (2), or 948.22 (7), maintenance payments under s.
12 767.26, or family support payments under this chapter, or for the appointment of
13 trustees under s. 767.31, the court may, from time to time, on the petition, motion,
14 or order to show cause of either of the parties, or upon the petition, motion, or order
15 to show cause of the department, a county department under s. 46.215, 46.22, or
16 46.23, or a county child support agency under s. 59.53 (5) if an assignment has been
17 made under s. 46.261, 48.57 (3m) (b) 2. or (3n) (b) 2., 49.19 (4) (h), or 49.45 (19) or if
18 either party or their minor children receive aid under s. 48.57 (3m) or (3n) or ch. 49,
19 and upon notice to the family court commissioner, revise and alter such judgment or
20 order respecting the amount of such maintenance or child support and the payment
21 thereof, and also respecting the appropriation and payment of the principal and
22 income of the property so held in trust, and may make any judgment or order
23 respecting any of the matters that such court might have made in the original action,
24 except that a judgment or order that waives maintenance payments for either party

1 shall not thereafter be revised or altered in that respect nor shall the provisions of
2 a judgment or order with respect to final division of property be subject to revision
3 or modification. ~~A- Except as provided in par. (d), a revision,~~ under this section, of
4 a judgment or order with respect to an amount of child or family support may be made
5 only upon a finding of a substantial change in circumstances. In any action under
6 this section to revise a judgment or order with respect to maintenance payments, a
7 substantial change in the cost of living by either party or as measured by the federal
8 bureau of labor statistics may be sufficient to justify a revision of judgment or order
9 with respect to the amount of maintenance, except that a change in an obligor's cost
10 of living is not in itself sufficient if payments are expressed as a percentage of income.

11 **SECTION 3793f.** 767.32 (1) (d) of the statutes is created to read:

12 767.32 (1) (d) In an action under this section to revise a judgment or order with
13 respect to child or family support, the court is not required to make a finding of a
14 substantial change in circumstances to change to a fixed sum the manner in which
15 the amount of child or family support is expressed in the judgment or order.

16 **SECTION 3793g.** 767.33 of the statutes is repealed and recreated to read:

17 **767.33 Annual adjustments in support orders.** (1) (a) An order for child
18 or family support under this chapter may provide for an annual adjustment in the
19 amount to be paid based on a change in the payer's income if the amount of child or
20 family support is expressed in the order as a fixed sum and based on the percentage
21 standard established by the department under s. 49.22 (9). No adjustment may be
22 made under this section unless the order provides for the adjustment.

23 (b) An adjustment under this section may not be made more than once in a year
24 and shall be determined on the basis of the percentage standard established by the
25 department under s. 49.22 (9).

1 (c) In the order the court or family court commissioner shall specify what
2 information the parties must exchange to determine whether the payer's income has
3 changed, and shall specify the manner and timing of the information exchange.

4 (2) If the court or family court commissioner provides for an annual
5 adjustment, the court or family court commissioner shall make available to the
6 parties, including the state if the state is a real party in interest under s. 767.075 (1),
7 a form approved by the court or family court commissioner for the parties to use in
8 stipulating to an adjustment of the amount of child or family support and to
9 modification of any applicable income-withholding order. The form shall include an
10 order, to be signed by a judge or family court commissioner, for approval of the
11 stipulation of the parties.

12 (3) (a) If the payer's income changes from the amount found by the court or
13 family court commissioner or stipulated to by the parties for the current child or
14 family support order, the parties may implement an adjustment under this section
15 by stipulating, on the form under sub. (2), to the changed income amount and the
16 adjusted child or family support amount, subject to sub. (1) (b).

17 (b) The stipulation form must be signed by all parties, including the state if the
18 state is a real party in interest under s. 767.075 (1), and filed with the court. If the
19 stipulation is approved, the order shall be signed by a judge or family court
20 commissioner and implemented in the same manner as an order for a revision under
21 s. 767.32. An adjustment under this subsection shall be effective as of the date on
22 which the order is signed by the judge or family court commissioner.

23 (4) (a) Any party, including the state if the state is a real party in interest under
24 s. 767.075 (1), may file a motion, petition, or order to show cause for implementation
25 of an annual adjustment under this section if any of the following applies:

1 1. A party refuses to provide the information required by the court under sub.
2 (1) (c).

3 2. The payer's income changes, but a party refuses to sign the stipulation for
4 an adjustment in the amount of child or family support.

5 (b) If the court or family court commissioner determines after a hearing that
6 an adjustment should be made, the court or family court commissioner shall enter
7 an order adjusting the child or family support payments by the amount determined
8 by the court or family court commissioner, subject to sub. (1) (b). An adjustment
9 under this subsection may not take effect before the date on which the party
10 responding to the motion, petition, or order to show cause received notice of the action
11 under this subsection.

12 (c) Notwithstanding par. (b), the court or family court commissioner may direct
13 that all or part of the adjustment not take effect until such time as the court or family
14 court commissioner directs, if any of the following applies:

15 1. The payee was seeking an adjustment and the payer establishes that
16 extraordinary circumstances beyond his or her control prevent fulfillment of the
17 adjusted child or family support obligation.

18 2. The payer was seeking an adjustment and the payee establishes that the
19 payer voluntarily and unreasonably reduced his or her income below his or her
20 earning capacity.

21 3. The payer was seeking an adjustment and the payee establishes that the
22 adjustment would be unfair to the child.

23 (d) If in an action under this subsection the court or family court commissioner
24 determines that a party has unreasonably failed to provide the information required
25 under sub. (1) (c) or to provide the information on a timely basis, or unreasonably

1 failed or refused to sign a stipulation for an annual adjustment, the court or family
2 court commissioner may award to the aggrieved party actual costs, including service
3 costs, any costs attributable to time missed from employment, the cost of travel to
4 and from court, and reasonable attorney fees.

5 (5) Nothing in this section affects a party's right to file at any time a motion,
6 petition, or order to show cause under s. 767.32 for revision of a judgment or order
7 with respect to an amount of child or family support.”.

8 **4.** Page 1653, line 2: after that line insert:

9 “**SECTION 3828r.** 808.075 (4) (d) 3. of the statutes is amended to read:

10 808.075 (4) (d) 3. Annual adjustment of child or family support under s.
11 767.33.”.

12 **5.** Page 1653, line 13: after that line insert:

13 “**SECTION 3830m.** 814.04 (intro.) of the statutes, as affected by 2001 Wisconsin
14 Act 6, is amended to read:

15 **814.04 Items of costs.** (intro.) Except as provided in ss. 93.20, 100.30 (5m),
16 106.50 (6) (i) and (6m) (a), 115.80 (9), 281.36 (2) (b) 1., 767.33 (4) (d), 769.313, 814.025,
17 814.245, 895.035 (4), 895.10 (3), 895.75 (3), 895.77 (2), 895.79 (3), 895.80 (3), 943.212
18 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as follows:”.

19 **6.** Page 1813, line 13: after that line insert:

20 “(8ck) **PERCENTAGE-EXPRESSED SUPPORT ORDERS AND ANNUAL ADJUSTMENTS.**

21 (a) The treatment of sections 767.08 (2) (b), 767.10 (2) (am), 767.23 (1) (c),
22 767.25 (1) (a), 767.263 (1), 767.265 (3m), 767.33, and 814.04 (intro.) of the statutes
23 first applies to judgments and orders, including revision orders under section 767.32

1 of the statutes, as affected by this act, and temporary orders, that are granted on the
2 effective date of this paragraph.

3 (b) The treatment of section 767.32 (1) (a) and (d) of the statutes first applies
4 to actions under section 767.32 of the statutes, as affected by this act, to revise a
5 judgment or order with respect to child or family support that are commenced on the
6 effective date of this paragraph.”.

7 (END)